

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN – BAY CITY DIVISION

FIREMAN’S FUND INSURANCE  
COMPANY  
a/s/o WHALEY STEEL CORP.

CASE NO. 08-10678

Plaintiff,  
vs.

HON. THOMAS L. LUDINGTON  
MAG. JUDGE CHARLES E. BINDER

B&B GENERAL CONTRACTING, INC.  
and NUCOR BUILDING SYSTEMS,  
A Foreign Corporation

Defendants.

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Fund  
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**STIPULATION TO STAY MATTER PENDING**  
**DISPOSITION OF CIRCUIT COURT CASE**

The parties do hereby stipulate that this matter will be stayed pending disposition of the  
Circuit Court case, *B & B General Contracting, Inc. v. Whaley Steel, et al.*, case number 07-

3302-CK, which is currently pending in the Iosco County Circuit Court.

s/Philip T. Carroll

Philip T. Carroll (P54383) Atty  
for Plaintiff, Fireman's Fund  
Dated: 6-4-08

s/James F. Troester

James F. Troester (P41857)  
Attorney for Def. B & B General  
Dated: 6-4-08

s/Brian T. McGorisk

Brian T. McGorisk (P44353)  
Attorney for Defendant, Nucor  
Dated: 6-6-06

**ORDER ACCEPTING STIPULATION TO STAY CASE, STAYING THE CASE,  
SCHEDULING A STATUS CONFERENCE, DISMISSING WITHOUT PREJUDICE  
DEFENDANTS' MOTION TO DISMISS, AND ADJOURNING JUNE 26, 2008 HEARING**

The parties' foregoing stipulation to stay the case is presently before the Court. The Court will accept the stipulation and stay the case. In light of the stipulation, Defendant Nucor Building Systems' pending motion to dismiss or stay the case pursuant to the Colorado River Abstention is moot. Dkt. # 9. It is appropriate to cancel the hearing and deny the motion without prejudice.

Accordingly, it is **ORDERED** that the parties' stipulation is accepted and the matter is **STAYED**.

It is further **ORDERED** that the parties shall appear at a status conference on **December 23, 2008 at 3:00 p.m.** In the event that the concurrent Iosco County Circuit Court Case (*B & B General Contracting, Inc. v. Whaley Steel Corp., et al.*, Case No. 07-3302) is resolved before that date, the parties shall notify the Court within **21 days** of its resolution.

It is further **ORDERED** that Defendant's motion to dismiss is **DENIED WITHOUT PREJUDICE** as moot and the hearing currently scheduled for **June 26, 2008 at 3:00 p.m.** is **CANCELLED**.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
The United States District Judge

Dated: June 10, 2008

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 10, 2008.

s/Tracy A. Jacobs  
TRACY A. JACOBS